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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/818,783 | 03/28/2001 | Akira Noda | 0445-0295P | 1034 |

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EXAMINER

ANDERSON, CATHARINE L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3761

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,783

Applicant(s)

NODA ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- **Th MAILING DATE of this communication appears on th cover sh et with the correspondence address --**
Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao et al. (WO 99/60973).

With respect to claims 1 and 4, Tao discloses all aspects of the claimed invention, but remains silent as to the L* and C* values of the printed area, and the light transmittance of the nonwoven material. Tao discloses an absorbent article, as shown in figure 10, comprising a liquid-permeable topsheet 54, an absorbent core 66, and a liquid-impermeable backsheet 52. The backsheet 52 is constructed from a breathable film material, as disclosed on page 5, lines 22-27. The film is printed with a multicolored graphic pattern, as disclosed on page 6, lines 21-28. A nonwoven material is laminated to the outer side of the film, as disclosed on page 9, lines 9-12. Tao discloses performing color difference tests on his backsheet film material, determining the

preferred b^* value for the material is between 0.0 and 0.5, making the material white or very close to it. Tao does not disclose performing color difference tests on the printed area of the backsheet 52. Tao does disclose using bright colors, such as royal blue (page 6, line 24), which are easily distinguished both from the white backsheet and from each other.

Tao discloses printing designs on the backsheet of a diaper that are distinguishable from the backsheet and visible through the nonwoven material laminated to the backsheet. It is well-known that lightly printed, faint hues are not easily distinguishable from a white background, while darkly printed hues are not easily distinguishable from each other. It is also well-known that a nonwoven material that does not allow suitable light transmittance will hinder both the visibility of the printed designs and the breathability of the backsheet. The ranges claimed in the instant invention for the lightness and chroma of the colors used in the printed design, and the range claimed for the light transmittance of the nonwoven material are therefore obvious. It would be obvious to one of ordinary skill in the art at the time of invention to print the designs of Tao such that they have an L^* value of 10 to 93 and C^* value of 20 to 120 so the design is easy to see, and to make the nonwoven material of Tao with a light transmittance of 40 to 83% so the design may be seen through the material and the backsheet remains breathable.

With respect to claim 3, the limitation disclosed relates to the nonwoven material prior to lamination. Only the end product carries patentable weight, and the limitation of claim 3 does not relate directly to the end product.

With respect to claims 6-9, the nonprinted areas of the breathable film of the backsheet 52 have a b^* value of 0.0, as disclosed in claim 1.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao et al. (WO 99/60973) as applied to claim 1 above, and further in view of Morman et al. (5,883,028).

Tao discloses all aspects of the claimed invention, but remains silent as to the basis weight of the nonwoven material used in the backsheet.

Tao discloses laminating a nonwoven material to a breathable film material with a basis weight of 20 to 40 g/m², as described on page 8, lines 4-9. Morman discloses a material for use as a diaper backsheet comprising a breathable film with a nonwoven material laminated to its outer side, as described in column 1, lines 5-8. McCormack discloses a basis weight of the nonwoven material as being between 15 and 50 g/m² in column 11, lines 44-46.

Response to Arguments

Applicant's arguments filed 10 May 2002 have been fully considered but they are not persuasive.

Tao discloses an absorbent article having a backsheet comprising a laminated sheet composed of a breathable film printed with a multicolored pattern, and a nonwoven material. The printed area of the breathable film comprises various bright colors, and are shown in figure 10 to be clearly distinguishable from the nonprinted area of the breathable film. In order to achieve a printed, multicolored pattern that is so easily distinguishable from the rest of the breathable film, it would be obvious to print

Art Unit: 3761

the multicolored pattern in such a way that the printed area, if measured with a color difference meter, would have L* and C* values within the claimed ranges.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner Dennis Ruhl can be reached on (703) 308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Art Unit: 3761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA

cla

July 26, 2002



DENNIS RUHL
PRIMARY EXAMINER